

17236 U.S. PTO
012304

Patent 250C5
Attorney Docket: 612,404-435

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 612,404-435
First Named Inventor: Gregory T. Kovacs
Prior Application Information:
Serial No. 09/903,110
Examiner: Soderquist
Art Unit: 1743

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
MAIL STOP PATENT APPLICATION

FILING UNDER 37 CFR § 1.53(b)

This is a request for filing for a

☒ continuation ☐ divisional ☐ continuation-in-part (CIP)

application under 37 CFR § 1.53(b) of pending prior application Serial
No. 09/903,110, filed on July 10, 2001, scheduled to issue as U.S. Patent No.
6,689,936

Gregory T. Kovacs, entitled:

Addressable Biologic Electrode Array

For CONTINUATION or DIVISION APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied, referenced above, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

CERTIFICATE OF MAILING
(37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Commissioner for Alexandria, VA 22313-1450.

EV337191160US
Express Mail Label No.

January 23, 2004
Date of Deposit
IR1:1051666.1

Denise N. Doss
Name of Person Mailing Paper

Denise N. Doss
Signature of Person Mailing Paper

031356 U.S. PTO
10/764041
012304

I. APPLICATION ELEMENTS ENCLOSED

- 20 Page(s) of Written Description
4 Page(s) of Claims
1 Page(s) of Abstract
8 Sheet(s) of Drawings ☒ formal ☐ informal
2 Page(s) of Declaration - Copy from prior application [37 CFR §1.63(d)]
2 Page(s) of Power of Attorney – Copy from prior application [37 CFR §1.63(d)]
- ☒ An Information Disclosure Statement and PTO SB/08A (no references)
- ☐ Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35

II. FEE CALCULATION

- ☒ Applicant claims small entity status under 37 CFR 1.27.

BASIC FILING FEE:						\$770.00
Total Claims	26	-	20	=	6	x \$18.00 108.00
Independent Claims	2	-	3	=	0	x \$86.00 0.00
Multiple Dependent Claims	\$280	(if applicable)				<input type="checkbox"/> 0.00
TOTAL OF ABOVE CALCULATIONS						\$878.00
Reduction by ½ for Filing by Small Entity.						<input checked="" type="checkbox"/> 439.00
Misc. Filing Fees (Recordation of Assignment)						\$
TOTAL FEES DUE SUBMITTED HEREWITH						\$439.00

III. PRIORITY - 35 USC § 119

- ☐ Priority of application Serial No. _____ filed on _____ in Country is claimed under 35 USC § 119.
- ☐ The certified copy has been filed in prior U.S. application Serial No. _____ on _____.
- ☐ The certified copy will follow.

IV. AMENDMENTS

- ☐ Cancel in this application original Claims ____ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes if no new claims are added in a preliminary amendment.)

- ☐ A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

V. RELATE BACK - 35 USC § 120

- ☒ Relate back information included in the specification and is as follows:

-- This application is a continuation of U.S. Application Serial No 09/903,110, filed July 10, 2001, now issued as U.S. Patent No. 6,689,936, which is a continuation of U.S. Application Serial No. 09/364,676, filed July 30, 1999, now issued as U.S. Patent No. 6,258,606, which is a continuation of U.S. Serial No. 08/677,305, filed July 9, 1996, now issued as U.S. Patent No. 5,965,452.--

- ☒ With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are) [37 CFR 1.53(b)(1)]:

☒ the same.

- ☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted [see 37 CFR §§1.33(b) AND 1.63(d)(2)]:

VI. METHOD OF PAYMENT OF FEES

- ☐ Attached is a check in the amount of _____.

- ☒ Charge O'Melveny & Myers Deposit Account No. **502862** in the amount of \$439.00

- ☐ Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]

VII. AUTHORIZATION TO CHARGE ADDITIONAL FEES

The Commissioner is hereby authorized to credit O'Melveny & Myers' Deposit Account

No. **502862** or any over payment of fees and to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **502862**:

- ☒ 37 CFR § 1.16 (Filing fees and excess claims fees)
☒ 37 CFR § 1.17 (Application processing fees)
☐ 37 CFR § 1.21 (Assignment recordation fees)

VIII. POWER OF ATTORNEY & CORRESPONDENCE ADDRESS

- ☒ The power appears in the original papers in the prior application.
- ☐ The power does not appear in the original papers, but was filed on _____ in prior application Serial No. _____.
- ☐ A new power has been executed and is attached.

Please send all correspondence and direct all inquiries to David B. Murphy at:

34263 O'Melveny & Myers LLP
PATENT TRADEMARK OFFICE 114 Pacifica, Suite 100
Irvine, CA 92618-3315
(949) 737-2900

IX. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION


- ☐ A petition, fee and response has been filed to extend the term in the pending **prior** application until _____. A copy of the petition for extension of time in the **prior** application is attached.
- ☐ A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.

X. ABANDONMENT OF PRIOR APPLICATION

- ☐ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item V above.

Respectfully submitted,
O'MELVENY & MYERS LLP

Dated: 1/23/04

By: 
Michael S. Davidson
Reg. No. 43,577

MSD/dnd

Enclosures

Nanogen, Inc.

Name of Assignee

10398 Pacific Center Court, San Diego, CA 92121

Address of Assignee

Mary Ann Stretch, Senior Director of Intellectual Property

Title of person authorized to sign on behalf of assignee

Recorded in PTO: October 23, 1996, Reel 8184, Frame 0484